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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/751,702	12/29/2000	George A. Durden	BS00155	8399
7590	10/17/2007		EXAMINER	
Scott P Zimmerman PLLC P O Box 3822 Cary, NC 27519			BROWN, RUEBEN M	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)
	09/751,702	DURDEN ET AL.
	Examiner Reuben M. Brown	Art Unit 2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 19 July 2007.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-5 and 11-15 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-5 and 11-15 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO/SB/08)
 Paper No(s)/Mail Date _____

4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date _____
 5) Notice of Informal Patent Application
 6) Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims have been considered but are not persuasive. Applicant argues on page 8 that Ming does not teach the amended claimed feature, 'with only portions of the program that vary from the default setting assigned the program control data'. Examiner respectfully disagrees.

Ming at col. 8, lines 4-54, teaches that a CATV service provider may choose to categorize each TV program, as a whole, as containing any of the predetermined content attributes. For example, if an individual TV program contains at least one instance of violence, the service provider may use the program category to identify the associated program, in its entirety as containing violent content. A consistently valued category code will accordingly be periodically embedded into access control information throughout the program's broadcast". This portion of Ming discloses that the program category code is not transmitted with every segment, it is only periodically transmitted, which is directed to solving the problem as claimed, 'to reduce an amount of information received'. Also Ming teachings that the service provider using the particular program category code to represent the entire program reads on the claimed 'default setting'. Furthermore, the passage reads on the amended claimed subject matter, since the entire TV program is associated with a content attribute, unless a segment of the movie has a different content attribute.

In the next paragraph, Ming teaches, “alternatively, CATV service provider may choose to categorize each TV program with more time-based granularity...For example, a particular program may be deemed to contain and instance of violent content at time t+10:12...The violent content may continue, for example, for one minute and five seconds, until time t+11:17. Ming goes on to disclose “program category codes indicative of an absence of any particular attributes from time t+0:00 until 10:10”. Therefore, Ming reads on the amended claimed subject matter, since for instance when there is an absence of particular attributes (which corresponds with the claimed ‘default setting’), the program category indicates that the entire group has the same category code.

Thus, even though Ming at col. 7, lines 20-25 reads, “the video frames of each TV program are embedded with a plurality of extended program categorization code”, the reference goes on to teach that instead, the CATV service provider may choose to categorize the TV program as a whole, and then encode specific program category codes to the portions that have different content attributes, col. 8, lines 14-50.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3-5, 11 & 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ming, (U.S. Pat # 5,710,815), in view of Ford, (U.S. PG-PUB 2001/0001159) & Oko, (U.S. Pat # 6,947,966).

Considering claim 1, system for controlling and managing presentation to viewers of programming content, the system comprising;

‘a processor communicating with memory and with a user interface, the processor adapted to receive the programming content comprising a program and program control data’, , reads on the decoder apparatus 200 (Fig. 17; col. 22, lines 50-67), which receives signals from the signal encoder 103 that combines the formatted access control data with a pre-existing video signal, (Fig. 1; col. 13, lines 10-40). The claimed ‘program’ corresponds with pre-existing video signal, and ‘program control data’ corresponds with formatted access control data.

The additional limitation, 'the program control data having a data format in which a default setting', reads on the disclosure in Ming of the global data that represents the main category rating for the instant program, (col. 7, lines 31-45; col. 8, lines 5-14; col. 8, lines 51-67; col. 19, lines 20-55).

'is subsequently followed by a series of data records, with one or more of the data records associated with a particular portion of the program, the one or more records having a linear representation comprising an offset time stamp, a rating value content attribute value, a component value and an action', is met by the disclosure of Ming that the access control data may also include extended category authorization, which associates content values with particular portions of the TV program, col. 8, lines 14-60.

Accordingly, Ming teaches the claimed, 'offset time stamp' (col. 8, lines 29-60); 'rating value' (col. 9, lines 1-16; col. 26, lines 15-30); 'content attribute value' (col. 9, lines 35-67 thru col. 10, lines 1-25); 'component value' reads on the value of each attribute, with respect to portions of the program, (col. 10, lines 11-25); 'an action', reads on the preclusion of the video programming that exceeds a user set threshold, (col. 10, lines 20-25; col. 28, lines 60-65).

The further amended claimed feature, 'with only portions of the program that vary from the default setting assigned the program control data to reduce an amount of information received', also reads on the disclosure in Ming that the CATV service may chose to categorize each TV program, as a whole, see col. 8, lines 3-12. Only the segments that have a different

value will have a program category code, since Ming goes on to discloses that for instance, the portions or frames of the TV program that do not have any attribute (i.e., corresponds with the claimed 'default setting'), are grouped together, with the same program category code, see col. 8, lines 39-50.

Regarding the newly claimed feature, 'when the viewer's presentation preferences differ from the program control data then means for substituting a discrete portion of the program with replacement data from another source, according to the control instructions', Ming only teaches precluding the viewing of a portion of a TV program, by blanking the screen, when the instant portion of the TV program has a category code higher than the threshold designated by the user, col. 8, lines 51-64. Nevertheless Ford, which is in the same field of endeavor, discloses substituting a scene that contains objectionable content, with different content, Abstract; Para [0029-0031; 0036-0037; 0041]. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Ming with the feature of substituting objectionable content with alternate content, (e.g., an alternate version) as taught by Ford [0007; 0009-0013], at least for the desirable improvement of provide the consumer with a more appealing and seamless movie like experience, instead of simply presenting a blank screen in the place of offensive content.

'the program control data comprising control instructions to modify discrete portions of the program when a viewer's presentation preferences differ from the program control data reads on Ming (col. 8, lines 51-64; col. 26, lines 54-65) & Ford, [0029].

‘the viewer interface adapted to receive information related to program presentation preferences of a viewer’, reads on receiver receiving user designated threshold values, with respect to acceptable levels of content, (Abstract; col. 10, lines 1-34; col. 19, lines 1-20; Fig. 17; col. 22, lines 51-67).

‘the processor receiving a vote via the user interface that suggests alternate plots for the program’, is not disclosed by Ming. However, Oko teaches receiving, recording and tallying the votes of a plurality of viewers, see col. 6, lines 10-30. A user device, shown in Fig. 5, initially receives the votes, (col. 7, lines 49-55), before being sent to a network server 56. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Ming with the feature of allowing users to vote on the outcome of broadcast, for the desirable benefit of increased user participation, which increases the interest of user in the broadcast, as taught by Oko, col. 4, lines 1-32.

‘processor receiving the alternative programming based on the tabulated votes’, reads on Oko, col. 8, lines 10-35.

Considering claims 3-4 & 13-14, Ming teaches that the offset time stamp refers to at least minutes and seconds from the start of the program, col. 8, lines 28-55. It is inferred that the hours value also maybe added, as necessary. Regarding claims 4 & 14, see Ming, col. 6, lines 5-65; col. 7, lines 15-65 & col. 25, lines 5-65.

Considering claims 5 & 15, Ming does not discuss the use of substitute audio/video portions. Official Notice is taken that at the time the invention was made, the use of substitute audio/video to play instead of audio/video programming that the user does not desire to hear/see, was well known in the art. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Ming with the feature of using substitute audio/video portions, at least for the improvement of giving the user more than a blank screen when programming is encountered that the user wishes to be precluded from seeing. The relative substitute audio/video portions would then necessarily also include a content rating value.

Considering claim 11, the claimed method for formulating programming content, comprises steps that correspond with subject matter mentioned above in the rejection of claim 1, and is likewise treated.

4. Claims 2 & 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ming, Ford & Oko, further in view of Baransky, (U.S. Pat # 6,122,660).

Considering claims 2 & 12, Oko, col. 6, lines 40-65, teaches that alternative plots are transmitted to viewers, but does not explicitly teach transmitting the alternative plots into 'channels of programming'. Nevertheless Baransky, which is the same field of endeavor,

discloses alternative programming being transmitted to viewers on a plurality of multiplexed streams, which reads on 'channels', col. 4, lines 5-60; col. 5, lines 10-30; 7, lines 30-67. It would have been obvious for one ordinary skill in the art at the time the invention was made, to modify the combination of Ming & Oko with the feature of transmitting alternative plots over channels, at least for the benefit of avoiding the system requiring upstream communication, in order to present alternative content to viewers, as taught by Baransky, Abstract.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

A) Sullivan Providing alternate scenes for objectionable programming, [0050].

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any response to this action should be mailed to:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

or faxed to:

(571) 273-8300, (for formal communications intended for entry)

Or:

(571) 273-7290 (for informal or draft communications, please label
"PROPOSED" or "DRAFT")

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reuben M. Brown M. Brown whose telephone number is (571) 272-7290. The examiner can normally be reached on M-F(8:30-6:00), First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Kelley can be reached on (571) 272-7331. The fax phone numbers for the organization where this application or proceeding is assigned is (571) 273-8300 for regular communications and After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Reuben M. Brown


REUBEN M. BROWN
PATENT EXAMINER